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In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-824

WINIFRED S. NANCE,
Petitioner,

vs.

UNION CARBIDE CORPORATION, CONSUMER PRODUCTS DIVISION,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION

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RESPONDENT'S BRIEF IN OPPOSITION

Union Carbide Corporation, Consumer Products Division (hereinafter "Union Carbide"), the Respondent herein, respectfully submits that a Petition for Writ of Certiorari to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit in the above numbered case should not issue for the reasons set forth below.

OPINIONS BELOW

The findings of fact and conclusions of law of the District Court for the Western Division of North Carolina (A. 23a)[1] are officially reported at 397 F. Supp. 436. The judgment of the District Court has not been reported but appears at A. 73a of the Petition. The opinion of the Court of Appeals for the Fourth Circuit (A. 1a) is officially reported at 540 F.2d 718. The order of the Court of Appeals denying Petitioner's petition for rehearing and suggestion for rehearing en banc has not been officially reported but appears at A. 22a of the Petition.

JURISDICTION

The jurisdictional prerequisites are adequately set forth in the Petition at p. 2.

QUESTION PRESENTED

The Respondent submits that the questions presented by the Petitioner erroneously interpret the issues decided by the court below. The question presented should be:

> Whether broad class action relief is appropriate in a Title VII action that was admittedly not brought, maintained or certified as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure where such relief is patently unnecessary to remedy the alleged discrimination against the individual plaintiff?

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1. References to portions of the opinions below that are reprinted in the appendix to the Petition are designated as (A. .....) with the appropriate page number cited. References to the Petition are designated as (P. .....) followed by the page number on which the cited material appears.

STATUTES INVOLVED

The pertinent provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (hereinafter "Title VII" or "the Act") are set forth in the Petition at pp. 3-4.

STATEMENT OF THE CASE

This action involves allegations of sex discrimination in violation of Title VII of the Civil Rights Act of 1964. Between April 14, 1970, and July 15, 1971, the Petitioner, Winifred S. Nance (hereinafter "Nance"), filed five charges of discrimination with the Equal Employment Opportunity Commission. As the Fourth Circuit correctly found, "all [of the charges] arose basically out of her layoff" (A. 1a-2a). On August 18, 1972, the complaint in this action was filed. The prerequisites for class action treatment set forth in Rule 23 of the Federal Rules of Civil Procedure were not pleaded in the complaint. Union Carbide subsequently moved for a more definite statement as to the class of persons, if any, that Nance sought to represent. This motion was denied by the district court on the express condition "that the plaintiff plead or file stipulations with regard to the class action aspects of the case, indicating more specifically the make-up of the class and the identity of the plaintiffs" (A. 2a). In response to this order, Nance filed the following stipulation for the record:

> This action was not brought as a class action pursuant to Rule 23(a), (b)(2) of the Federal Rules of Civil Procedure, when the action was initially filed in Court on August 18, 1972. Plaintiff does not contemplate at this time seeking to amend the Complaint to allege a class action, however, plaintiff is of the opinion that whatever benefits she may obtain in this action

should inure to the benefits of other similar situated females of the defendant in the Mecklenburg County, North Carolina facilities of the defendant (P. 5).

The individual character of this action was again noted by the district court in an order sustaining Nance's objections to certain interrogatories posed by Union Carbide concerning back pay for females other than Nance. As the court put it, these interrogatories did not have to be answered because "this suit was brought and remains an individual action and not a class action" (A. 3a).

The trial of this case began on March 12, 1974, and lasted for eight days. Early in the trial proceedings, counsel for Nance responded to a question by the district court concerning the class aspects of the case by once again stating:

> This is not a class action, Your Honor. I would call the Court's attention to the fact that this matter was raised very early in these proceedings. The Court asked us to state our position on the class. Our position at that time was that even though there was not a class action, we did think that the relief in terms of the policies under attack, if the Court grants relief, should inure to the benefit of other females at the plant. That statement is on file with the Court.

Nance's position concerning the individual nature of this case has never changed. She has never sought to have this action certified as a class action pursuant to Section (c)(1) of Rule 23.[2] Nor has she ever attempted

2. Rule 23(c)(1) provides in part: "As soon as practicable after the commencement of a class action, the court shall determine whether it shall be so maintained". *See Katz* v. *Carte Blanche Corp.*, 496 F.2d 747, 760 (3d Cir. 1974), *cert. denied*, 419 U.S. 885 (1974) ("the plaintiff, not the judicial system controls whether or not to ask for class action treatment").

to define a class, if one exists, of similarly situated individuals or to show that the prerequisites for class treatment listed in Section (a) of Rule 23 have been met.[3]

After trial, on April 1, 1974, the district court directed the plaintiff and defendant to file proposed findings of fact and conclusions of law on specified issues.[4] Both parties submitted proposed findings on all issues raised at trial. On April 28, 1975, more than a year after trial on the merits, the court adopted Nance's proposed findings of fact and conclusions of law on all issues raised at trial.

Thereafter, Nance submitted an unsolicited proposed judgment which the district court adopted with only minor changes (A. 73a-81a). In spite of the fact that Nance had repeatedly stated that this was an individual action and not a class action, the court adopted the overly broad and unduly burdensome injunctive relief proposed by Nance. Such relief went far beyond that which was even remotely necessary to remedy any discrimination that Nance as an individual may have suffered. Indeed, the relief ordered extended beyond the relief that would have been appropriate in a class action. For example, the mandatory portions of the district court's injunction required

3. Rule 23(a) provides:

> (a) *Prerequisites to a Class Action.* One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

4. The district court's letters to counsel requesting the submission of proposed findings are set forth in the Petition at p. 7, n. 2. As indicated in these letters, immediately after trial the court was predisposed to enter findings in favor of Union Carbide on all issues raised at trial, except the issue of seniority lost in layoffs prior to 1965 and, possibly, job posting.

Union Carbide to institute the following new policies at its Charlotte, North Carolina plant:

(a) An original hire date seniority system that would apply to *all* male and female employees even though there was no showing of discrimination against male employees or other identifiable female employees.[5]

(b) A layoff policy which required unlimited "bumping" every time there was a reduction in force or a job rearrangement. There was no distinction made in this layoff policy between skilled and unskilled jobs. Thus, under the court's order an unskilled and untrained janitor with greater seniority could displace a skilled mechanic or millwright with less seniority in order to avoid layoff.

(c) A recall policy which would give preference to laid off employees over active employees with less original hire date seniority.

(d) A vacancy filling procedure based on job posting which provided that vacancies must be filled according to original hire date seniority without any regard whatsoever to an individual's qualifications (vacancies were defined by the court to include jobs vacated by vacation or illness which exceed two weeks). Under this policy, Union Carbide would have been required to offer and perma-

5. During all times relevant to this case, Union Carbide has maintained a company service or plant-wide seniority system which grants seniority credit for all time of active employment. Periods of layoff and other periods of absence are deducted from company service credit. The district court's order would have restored the seniority lost on layoff or other breaks in employment for all employees at the plant even though there was no showing of discrimination against these employees.

nently fill the job of any employee who was temporarily disabled or took a vacation in excess of two weeks.

(e) An absolute quota system for hiring or promotion into supervisory positions whereby all vacancies for supervisory positions had to be filled with qualified females until the percentage of female supervisors approximately equaled the percentage of females in the Charlotte plant on the date this action was filed. This relief was ordered even though the court did not find that Nance was qualified for promotion or had been discriminated against in the selection of supervisors.[6]

(f) Finally, the district court's order required periodic posting on company bulletin boards of seniority rosters and job descriptions for all hourly and supervisory jobs.

In addition to the mandatory portions of the district court's injunction, the court prohibited the Company from further use of its present tests and its policy of classifying jobs as light or heavy jobs (A. 73a-81a).

On appeal, the Fourth Circuit vacated the judgment of the district court upon finding that the relief ordered was not necessary to remedy the discrimination allegedly suffered by the Petitioner. The court further found that the broad injunctive relief ordered by the district court would not be appropriate even in a properly certified class action (A. 18a-20a). After reviewing the record facts and the issues presented on appeal, the court concluded that Nance was only entitled to possible back pay, attor-

6. As noted by the court below, Nance never even claimed to be qualified for supervisory position (A. 13a).

ney's fees, and "an adjustment in her [seniority date] sufficient to remove the adverse effect of any pre-Act discriminatory layoffs" (A. 18).[7]

ARGUMENT

The Petition for Writ of Certiorari in this case presents a question that is so narrow in scope and so confined to a unique set of facts that a decision by this Court could not possibly have general application to future Title VII actions. As argued more fully below, the Petitioner clearly misinterprets the holding of the Fourth Circuit Court of Appeals which is carefully limited to the facts of this case. Thus, there is no broad or important question of federal law presented that warrants review by this Court. Furthermore, the decision of the Fourth Circuit on the class aspects of this case is manifestly correct and, limited as it is to the unique facts of this case, does not create a conflict with the decisions of other courts of appeals. For these reasons, the Respondent respectfully submits that the Petition in this case should be denied.

I.

There Is No Important Question of Federal Law

The Petitioner maintains that this case presents the important federal question of whether the award of "make whole" relief, that is mandated upon a finding of discrimination by Section 706(g) of Title VII[8] and decisions of

7. Union Carbide has petitioned this Court for a Writ of Certiorari to review the holding by the Fourth Circuit in this case that remedial seniority can be granted to eliminate the effects of seniority that was not accrued because of layoffs that occurred prior to the effective date of Title VII. *Union Carbide Corporation* v. *Nance*, Case No. 76-838, filed December 20, 1976.

8. 42 U.S.C. § 2000e-5(g).

this Court,[9] can be circumscribed or limited by Rule 23 of Federal Rules of Civil Procedure (P. 10-14). The Petitioner flatly states that "the decision of the Court of Appeals interposes a general prohibition on the authority of federal courts to award comprehensive and necessary relief to individual victims of employment discrimination". Further, the Petitioner states that "if the decision is correct, no federal court would have the authority to grant effective relief from systematic and institutional employment discrimination unless the case is certified as a class action. . . ." (P. 11). Arguably, such a question and such a holding by the Fourth Circuit would present an important federal question. *It is clear, however, the holding in this case does not raise this question.*

The decision below can be fairly divided into three parts. The first part of the decision deals with the question of "whether this action is to be treated as a class or as an individual action" (A. 2a). After reviewing Nance's express stipulations that this action was not a class action, the Fourth Circuit restated the issue as one carefully limited to the facts of this case. "The issue thus is whether, *in these circumstances, and in the face of two express 'representations' by the plaintiff to the Court that her action was strictly an individual action, and in the absence of any order of any class certification by the Court itself*, this action can fairly be declared a class action in compliance with Rule 23" (emphasis added) (A. 4a). The Fourth Circuit concluded it could not. "*On this record then*, we find no warrant for treating this case as anything more than what the plaintiff herself has designated it, to wit, an individual action limited as it is to plaintiff's individual claim or claims (emphasis added)

9. *Franks* v. *Bowman Transportation Co.*, 424 U.S. 747 (1976); *Albemarle Paper Co.* v. *Moody*, 442 U.S. 405 (1975).

(A. 9a). Thus, the court below made no broad proclamations that could in any way be interpreted to prohibit appropriate relief in Title VII actions not certified as class actions.[10] The court merely held that because this action was not a certified class action, the district court should have limited its consideration to the evidence supporting plaintiff's individual claims of discrimination. Such a holding is entirely consistent with this Court's decision in *McDonnell Douglas* v. *Green*, 411 U.S. 792 (1973).

After concluding that this action was not a class action, the Fourth Circuit in the second part of its decision stated that "the real issue in this case is accordingly the validity of plaintiff's individual claim" (A. 9a). The court then considered the merits of three of Nance's "peripheral" claims. First, the court found that the district court erred in enjoining Union Carbide's prior job classification system because "there [is not] the slightest suggestion in the record or reason to believe that there is any threat that such [classifications] abandoned by the defendant in 1969, will be reinstituted" (A. 12a).

Regarding Nance's second claim of sex discrimination in Union Carbide's procedure for selecting supervisors, the Fourth Circuit noted that Nance had offered no proof as to her qualifications for promotion to a supervisory

10. That the court's holding in this case was not meant to limit a district court's discretion in awarding broad injunctive relief in an individual action is amply demonstrated by the Fourth Circuit's recent *en banc* decision in *Roman* v. *ESB, Incorporated*, ... F.2d ....., No. 73-2423 (decided Dec. 28, 1976), where the court indicated it had not yet decided this question:

> [W]e note that the authorities apparently are not uniform as to whether relief may be awarded, in a proper case, absent a class action, which extends beyond those who are plaintiffs in the suit. . . . *We mention this not to express an opinion on the subject, but to indicate the wide range of choices within the reach of the district judge* (emphasis added) (citations omitted).

position. The court found that what proof there was in the record on this issue was offered by the defendant and "consisted of undisputed testimony, concurred in by the plaintiff herself, that the plaintiff was unable to work amicably with her fellow employees and had been embroiled in difficulties with them". On these facts, the court concluded that "this was a perfectly valid reason for not considering plaintiff for a supervisory position" (A. 12a).

The final "peripheral issue" considered by the court below involved a test utilized by Union Carbide since 1970. This test was required for entry into several jobs requiring specialized skills. The Fourth Circuit, relying on this Court's decision in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405 (1975),[11] found that since more females than males had passed the test there was no disparate impact and, therefore, no sex discrimination (A. 13a-15a).

One important point should be made concerning the Fourth Circuit's consideration of these "peripheral issues". The Petitioner erroneously argues that:

> The Court of Appeals summarily rejected practically all of Petitioner's claims of employment discrimination for two reasons. First, the court failed to apply the appropriate standing test to the allegations made by Petitioner in charges that she had filed with the EEOC. Secondly, the court focused upon a letter, . . . that the district judge sent to counsel—rather than the charges Petitioner had filed with the EEOC—as the

11. In *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 425 (1975), this Court stated that a test can be proved to have a discriminatory effect "only after the complaining party . . . has shown that the tests in question select applicants for hire or promotion in a racial pattern significantly different from that pool of applicants".

basis upon which to determine what claims of Petitioner were entitled to plenary judicial consideration (P. 17).

Petitioner's statement that the Fourth Circuit "summarily rejected practically all" of Petitioner's claims because of a lack of standing and because of reliance on the district court's letters to counsel is simply incorrect. As pointed out above, the court below considered all of Nance's peripheral claims in detail and found them without merit on the record. In fact, the court mentions standing only in dictum and only in connection with her claim of discriminatory promotion policies. And there, the court's ruling is clearly grounded on Nance's lack of qualifications for promotion rather than on a lack of standing (A. 12a-13a). Likewise, the trial court's letters[12] are mentioned in dictum only to show that immediately after the trial "the trial court seemingly regarded [these additional issues] as wanting in substance". However, the Fourth Circuit clearly did not rely on these letters in rejecting Nance's claims. To the contrary, the court carefully reviewed each of these claims and found they lacked merit (A. 10a-15a).

After considering Nance's "peripheral" claims, the Fourth Circuit in the third part of the decision in this case found that Union Carbide's seniority policy perpetuated the effects of alleged discriminatory layoffs that occurred prior to the effective date of Title VII.[13] In order to remedy this alleged discrimination, the court held that "the plaintiff is accordingly entitled to a judgment requiring an adjustment in her 'company service' status sufficient to remove the adverse effect of any pre-Act discriminatory layoffs" (A. 18a). Turning to the broad injunctive relief ordered by the district court, the Fourth Circuit stated that the district court's judgment went far beyond that which would be appropriate in a properly certified class action (A. 19a-20a). On this basis, and on this basis alone, the court vacated the district court's judgment. Contrary to the Petitioner's contention, the Fourth Circuit did not rely on Rule 23 to limit relief that was necessary to remedy the alleged discrimination.[14] At most, therefore, the decision of the court below stands for the sound proposition that a court must tailor its remedy so that it does not exceed that which is required to eliminate the effects of discrimination.

12. The letters referred to are reprinted in the Petition at p. 7, n. 2. These letters should be read in light of the fact that over a year after trial on the merits, the court summarily adopted the proposed findings of fact and conclusions of law as prepared by the plaintiff on *all* issues presented at trial.

13. See n. 7, *supra*.

II.

There Is No Conflict

The Petitioner claims that the decision of the court below conflicts with decisions of other appellate courts which hold that a district court may enjoin an unconstitutional law or regulation or an employment practice which violates Title VII in non-class action cases even though such an injunction incidentally benefits other similarly situated individuals who are not parties to the suit. The fallacy in this argument is readily apparent: It is grounded on the Petitioner's misinterpretation of the holding in this case. Contrary to the contention of Petitioner, the court below did not rule "that an individual plaintiff is not entitled to broad injunctive relief unless class cer-

14. Because the decision of the Fourth Circuit grants relief to the extent "to which plaintiff was properly entitled" (A. 20a), Petitioner's argument that the court below used Rule 23 in derogation of the Rules Enabling Act, 28 U.S.C. § 2072, has no merit.

tification is granted" (P. 16). The Fourth Circuit simply found that, on the facts of this case, Nance had failed to establish that she was *entitled* to broad injunctive relief (i.e., that broad injunctive relief was not necessary to remedy the discrimination found by the district court). Thus, when the cases cited by Petitioner are compared with the narrow holding in this case, it is obvious that there is no conflict.

For example, one line of cases cited by the Petitioner involves actions for declaratory or injunctive relief because of the alleged unconstitutionality of a law or regulation or because an employment practice allegedly violates Title VII.[15] In cases of this nature, it is arguable that the only possible remedy is the abolition of the offending law or practice. In the instant case, however, it is clear that it was not necessary to enjoin any of Union Carbide's employment practices in order to remedy the discrimination allegedly suffered by Nance as an individual. As the court below correctly found, the alleged discrimination suffered by Nance could be adequately remedied by a simple adjustment in her seniority date and an award of back pay (A. 18a-20a).[16]

Likewise, there is no conflict between the holding in this case and the other cases relied on by Petitioner.

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15. See Petition at pp. 14-16 wherein the following cases are cited: *Craft* v. *Memphis Gas, Light & Water Div.*, 534 F.2d 684 (6th Cir. 1976); *Carey* v. *Greyhound Bus Co.*, 500 F.2d 1372 (5th Cir. 1974); *Carter* v. *Butz*, 479 F.2d 1084 (3d Cir. 1973), *cert. denied*, 414 U.S. 1094 (1973); *Martinez* v. *Richardson*, 472 F.2d 1121 (10th Cir. 1973); *Ihrke* v. *Northern States Power Co.*, 459 F.2d 566 (8th Cir. 1972), *vacated and remanded to dismiss as moot*, 409 U.S. 815 (1972).

16. In addition, the district court's injunction against the future use of Respondent's seniority system as it applied to all *male and female employees* was not proper since there was no showing that the seniority system discriminated against other identifiable male or female employees.

In *Sprogis* v. *United Air Lines, Inc.*, 444 F.2d 1194, 1201 (7th Cir. 1971), *cert. denied*, 404 U.S. 991 (1971), the court, in an individual Title VII action, held that relief could be extended after judgment on the merits to other similarly situated females. However, the *Sprogis* court recognized that class relief could not be granted in an individual action without complying with the safeguards of Rule 23:

> In affirming the district court's power to consider extending relief beyond the named plaintiff, we express no opinion on the ultimate decision to be reached upon remand. *Whether such relief is appropriate in this case must first be determined by the court below after consideration of the arguments advanced by the parties, including references to the safeguards of Rule* 23. We merely hold today that the court may so proceed (emphasis added). 444 F.2d at 1202.

On remand, the district court considered the propriety of converting the *Sprogis* action into a class action for the purpose of extending relief to other similarly situated females and concluded that Rule 23 prevented such action. *Sprogis* v. *United Air Lines*, 56 F.R.D. 420 (N.D. Ill. 1972). Therefore, the *Sprogis* decision stands for the proposition that, in an appropriate Title VII case, a district court has the power to convert an individual action into a class action after a decision on the merits as long as the court requires adherence to Rule. 23.[17]

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17. The dissent in *Sprogis* argued that "a procedure which permits a claim to be treated as a class action if plaintiff wins, but merely as an individual claim if plaintiff loses, is strikingly unfair." 444 F.2d at 1207 (Stevens, J., dissenting). In effect, the *Sprogis* decision resurrects the notion of "one-way intervention" that was laid to rest by the 1966 amendments to Rule 23. *See* Advisory Committee's Note to Rule 23 as revised in 1966, 3B

(Footnote continued on following page)

As noted by the Petitioner, the *Sprogis* decision *apparently* conflicts with the Fifth Circuit's holding in *Danner* v. *Phillips Petroleum Co.*, 447 F.2d 159 (5th Cir. 1971). In *Danner*, the Fifth Circuit held that the district court erred when it enjoined the defendant from discriminating against *any* of its female employees in an action brought by a single female employee. Characterizing the relief awarded as "class action relief", the court noted that "class actions are governed by the quite specific requirements of Rule 23". 447 F.2d at 164. The court concluded, "we hold that class action relief must be predicated upon a proper class action complaint satisfying all of the requirements of Rule 23". 447 F.2d at 164, n. 10.

Despite the apparent conflict between the *Sprogis* and *Danner* decisions, these cases can be harmonized. As one commentator put it:

> The Sprogis and Danner cases can be harmonized. Taken together, they indicate that although the court may suggest that relief to a definable class would be appropriate, it cannot simply award a remedy after adjudicating an individual claim. Rather, the district court must require the actual plaintiff or interested persons to demonstrate that it would be appropriate to do so and make certain that all of the prerequisites of Rule 23 have been satisfied. Wright & Miller, *Federal Practice and Procedure*, Civil § 1754 (1972).

(Continued from previous page)

Moore's Federal Practice ¶23.01 [11-3] (1976). *See also, American Pipe & Construction Co.*, 414 U.S. 538 (1974) ("The 1966 amendments [to Rule 23] were designed, in part, specifically to mend this perceived defect [one-way intervention] in the former rule and to assure that members of the class would be identified before trial on the merits and would be bound by all subsequent orders and judgments").

Although there is arguably a conflict between the *Sprogis* holding and the *Danner* holding, a decision in the present case would not resolve any conflict that may exist.[18] Unlike *Sprogis*, neither the plaintiff nor the district court *sua sponte* has ever sought to certify this action as a class action as required by Rule 23(c)(1). Indeed, Nance expressly denied as a matter of record that she sought class certification. For these reasons, the court below had no alternative but to conclude that the present case was an individual action and, as such, confined in scope to the plaintiff's individual claim. Moreover, the court below correctly concluded that there was no reason to drastically overhaul many of Union Carbide's long-standing policies in order to provide an adequate remedy in this case. For these reasons, this case is very distinctly different from the cases relied on by Petitioner in attempting to demonstrate a conflict between circuits. Because this case does not present the issue raised in the cases cited in the Petition to demonstrate a conflict between circuits, the issuance of a Writ of Certiorari in the present case to resolve the conflict that may exist in other circuits would constitute an advisory opinion in contravention of long-standing rules of this Court. *Muskrat* v. *United States*, 219 U.S. 346 (1911).

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18. The Petitioner also cites *Tipler* v. *E. I. du Pont de Nemours & Co.*, 443 F.2d 125, 130 (6th Cir. 1971), as supporting the position that class relief is available in an individual Title VII action. In *Tipler*, the court noted that other black employees might benefit from the broad injunctive relief sought by the plaintiff. However, like *Sprogis* and *Danner*, the Sixth Circuit cautioned that "the District Court should take necessary precautions to protect the interests of the parties who will be affected by the action". *See also, Washington* v. *Safeway Corp.*, 467 F.2d 945, 947 (10th Cir. 1972) (where Rule 23 prerequisites have not been met in individual Title VII action, action should not be treated as a class action).

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this Petition for Writ of Certiorari should be denied.

Respectfully submitted,

THOMPSON, OGLETREE AND DEAKINS

By: J. FRANK OGLETREE, JR.

By: H. LANE DENNARD, JR.

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